

February 28, 2019

VIA EMAIL

United States Environmental Protection Agency
National Freedom of Information Officer
1200 Pennsylvania Avenue, NW (28822T)
Washington, DC 20460
hq.foia@epa.gov

RE: AEP GENERATION RESOURCES INC./CCR DJ
AEP Generation Resources, Inc., et al. v. AG Insurance SA/NV, et al., Case No.
18-CV-004317, In the Court of Common Pleas, General Division, Franklin
County, Ohio

Dear National Freedom of Information Officer:

Pursuant to 5 U.S.C. § 552 and 40 C.F.R. § 2.102, we submit this request for public records, consisting of any and all documents regarding certain environmental conditions related to the following power plants, including but not limited to the below described coal ash basin/pond and landfill sites at the following facilities:

Cardinal Plant¹ (located at 306 County Road 7E, Brilliant, OH 43913)

- Bottom Ash Pond;
- Any and all fly ash reservoirs, including, but not limited to:
 - Fly Ash Reservoir I Residual Solid Waste Landfill (FAR 1 RSW Landfill);
 - Fly Ash Reservoir II (FAR II); and
- Any additional coal ash disposal facilities at the site.

Conesville Plant² (located at 47201 Co Rd 273, Conesville, OH 43811)

- Landfill;

¹ Upon information and belief, the Cardinal Plant is or was previously owned and operated by the Cardinal Operating Company, in which Ohio Power Company, Buckeye Power, Inc., and/or AEP Generation Resources, Inc. (a wholly-owned subsidiary of American Electric Power Company) have or previously had ownership interest.

² Upon information and belief, the Conesville Plant is owned and operated by Ohio Power Company and AEP Generation Resources (a wholly-owned subsidiary of American Electric Power Company) or their predecessor, Columbus & Southern Ohio Electric Company.

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- Ash Pond; and
- Any additional coal ash disposal facilities at the site.

Clinch River Plant³ (located at 3464 Power Plant Road, Cleveland, VA 24225)

- Ash Pond 1; and
- Any additional coal ash disposal facilities at the site.

John Amos Plant⁴ (located at 1530 Winfield Road, Winfield, WV 25213)

- Bottom Ash Pond;
- Fly Ash Pond John E. Amos Landfill (also known as the Flue Gas Desulfurization Landfill); and
- Any additional coal ash disposal facilities at the site.

Mitchell Plant⁵ (located at 8999 Energy Drive, Moundsville, WV 26041)

- Bottom Ash Pond;
- Landfill; and
- Any additional coal ash disposal facilities at the site.

The Plaintiffs in the above-captioned insurance coverage action concerning these power plants are AEP Generation Resources, Inc., Appalachian Power Company; Cardinal Operating Company; Kentucky Power Company; Ohio Power Company; and Wheeling Power Company (along with predecessor, Columbus & Southern Ohio Electric Company collectively referred to herein as “AEP”). **We ask that you include these entities in your search.**

Public Records Requests

(1) All documents regarding any actual or alleged coal combustion residuals (“CCR”) discharge at or arising from any of the Plants, including, but not limited to:

- a. Records of any investigation of those CCR discharges;

³ Upon information and belief, the Clinch River Plant is owned and operated by Appalachian Power Company and/or AEP Generation Resources, Inc. (a wholly-owned subsidiary of American Electric Power Company).

⁴ Upon information and belief, the John Amos Plant is owned and operated by Appalachian Power Company and/or AEP Generation Resources, Inc. (a wholly-owned subsidiary of American Electric Power Company).

⁵ Upon information and belief, the Mitchell Plant was owned and operated by Ohio Power Company, and later by Kentucky Power Company, Wheeling Power Company, and/or AEP Generation Resources (all wholly-owned subsidiaries of American Electric Power Company).

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- b. Records of groundwater monitoring related to such discharges;
- c. Any report, complaint, or other document related to the migration of CCR constituents from ash ponds or landfills at any of the facilities; and
- d. All communications with AEP regarding such report, complaint or other document related to such discharges.

(2) All reports or studies regarding actual or potential environmental contamination arising from the handling, storage, treatment or disposal of coal ash at each Plant, including actual or potential groundwater contamination and groundwater monitoring results.

(3) All documents regarding AEP's obligation to address any actual or potential environmental contamination arising from the handling, storage, treatment or disposal of coal ash at each Plant, including groundwater contamination. This specifically includes, but is not limited to, all communications and correspondence with AEP regarding any investigative or remedial requirements at or arising from any of the power plants, and documents detailing compliance monitoring.

(4) All documents regarding actual or alleged environmental permit violations by AEP related to the handling, storage, treatment or disposal of CCR at each Plant, and documents detailing permit compliance monitoring.

(5) All documents related to any groundwater monitoring and corrective action prescribed by 40 C.F.R. § 257.90 *et seq.* or any other applicable standard at each Plant. This specifically includes, but is not limited to:

- a. All communications with AEP regarding any increase over background levels for any constituent listed in appendices III and IV of 40 C.F.R. Part 257 (Criteria for Classification of Solid Waste Disposal Facilities and Practices) (hereinafter referred to as "exceedances");
- b. Any site surveys and reports, summaries or recording prepared by the United States Environmental Protection Agency, Ohio Environmental Protection Agency, Virginia Department of Environmental Quality and/or West Virginia Department of Environmental Protection regarding such exceedances; and
- c. All communications with AEP regarding any groundwater protection standard established for any constituent in appendix IV detected in the groundwater prescribed by 40 C.F.R. § 257.95(h).

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- (6) All reports, findings, or summaries of any inspection at each Plant.
- (7) All documents, including, but not limited to, communications with AEP, relating to any seeps, leaks, spills and/or breaches at coal ash impoundments and/or storage areas at any of the facilities.
- (8) All documents, including, but not limited to, communications with AEP, related to any actual or contemplated closure of any CCR impoundment at the facilities.
- (9) All documents related to any investigation and/or remediation activity concerning CCR-related chemicals of concern at the facilities.
- (10) All documents related to any investigation of naturally occurring concentration of any CCR constituent in soil or groundwater in or near any of the facilities.
- (11) Any memoranda of agreement, consent agreements, covenants not to sue, no further action letters, variances and/or other agreements between the United States Environmental Protection Agency and AEP relating to any of the facilities.
- (12) Any and all permits, applications, maps, photographs, internal memoranda, handwritten notes or memoranda, telephone notations, and statements and written records of any kind concerning the environmental investigation and/or remediation of any actual or alleged CCR discharges at or arising from any of the facilities.
- (13) Any United States Environmental Protection Agency, Ohio Environmental Protection Agency, Virginia Department of Environmental Quality and/or West Virginia Department of Environmental Protection memoranda interpreting the federal CCR Rules and how the rules will apply to the facilities in the States at issue (or whether the states will institute its own rules/standards/program).
- (14) Any United States Environmental Protection Agency, Ohio Environmental Protection Agency, Virginia Department of Environmental Quality and/or West Virginia Department of Environmental Protection memoranda/opinions/regulations defining more restrictive or different requirements than the federal CCR Rules.
- (15) Any United States Environmental Protection Agency, Ohio Environmental Protection Agency, Virginia Department of Environmental Quality and/or West Virginia Department of Environmental Protection opinions/memoranda on any of the facilities at issue related to the CCR Rules.

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(16) Any United States Environmental Protection Agency, Ohio Environmental Protection Agency, Virginia Department of Environmental Quality and/or West Virginia Department of Environmental Protection opinions related to compliance/remediation at any of the facilities.

(17) Any information related to the environmental compliance history of each facility or the history of the facility in general.

For purposes of this request, the term public "records" shall have the meaning defined in 5 U.S.C. § 552(f)(2) and shall include all such records in the possession, custody or control of the United States Environmental Protection Agency as well as those prepared by, created by, or in the possession, custody or control of its agents, contractors, and subcontractors. This request specifically includes all emails, handwritten notes, letters, records of telephone conversations, drafts and reports.

If there are any fees for searching or copying these records, please inform us if the cost will exceed \$250. If you expect a significant delay in responding to and fulfilling this request, please contact us with information about when we might expect copies or the ability to inspect the requested records.

Thank you for considering our request.

Sincerely yours,

JACKSON & CAMPBELL, P.C.



Andrea L. Higgins
Senior Paralegal